IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 567 OF 2005 Single Bench

PETITIONERS : 1. Ravindra Kumar Baghel, S/o. Shri Ramdas Baghel, Aged about 44 years, Occupation Service Asst. Teacher (B.Ed), posted at Primary School Haparipara, Vikas Khand Keshkal, Tah. & Distt. Bastar (C.G.)

P.R. No. 5049/04
Presented by Shri Arun Kashyap
dated 24/12/04

2. Dansay Mandavi, S/o Shri Dasru Ram Mandavi, aged about 40 years, Occupation-Service,Asst. Teacher (B.Ed), posted at Primary School Aanwari, Vikash Khand Keshkal, Distt. Bastar (C.G.)

3. Krishna Kumar Nag, S/o. Shri Nohar Aged about 40 years, Occupation Service, upper Division Teacher (B.Ed) posted at Govt. Higher Secondary School Vishrampuri Vikash Khand Vishrampuri, Distt. Bastar,(C.G.)

4. Rakesh Kumar Vishwakarma, S/o. S. P. Vishwakarma, Aged about 41 year, Occupation-Service,Upper Division Teacher (B.Ed), Govt. Boys Higher Secondary School Keshkal, Vikash Khand Keshkal, Distt. Bastar, (C.G.).

5. Smt. Sushila Markam, W/o. M.R. Markam, aged 38 about years, Occupation Service, Asst. Teacher (D.Ed.), posted at Primary School Patoda, Vikash Khand Farsagaon, Distt. Bastar (C.G.)

6. Chandrahas Thakur, S/o. Shri D.R. Thakur aged about 36 year, Occupation-Service, Asst. Teacher(D.Ed), posted at

Primary School Pavaras, (Pipravahigaon) Vikash Khand, Keshkal, Distt. Bastar, (C.G.)

7. Smt. Sumitra Vatti, W/o. Shri R.K. Vatti aged about 37 years, Occupation Service, Asst. Teacher (D.Ed), posted at Primary Girls Ashram Keshkal, Vikas Khand Keshkal, Distt. Bastar, (C.G.)

8. Pukhraj Pathak, S/o Champa Lal Pathak, aged about 43 years, R/o Village-Singanpur, Occupation-Asstt.teacher posted at Middle School, Singanpur, Keshkal, Vikas Khand Keshkal, Distt. Bastar, (C.G.)

VERSUS

RESPONDENTS : 1. STATE OF CHHATTISGARH, Trough the Secretary Department of School Education, Mantralay, D.K.S. Building, Raipur, (C.G.).

2. The Director, Public Instructions, Chhattisgarh, Raipur, Tahsil and District Raipur (C.G.)

3. The Assistant Commissioner, Aadim Jati Kalyan, and Vibhag, Jagdalpur, Distt.Bastar, (C.G.)

4. The District Education Officer, Bastar, Tahsil & Distt.- Bastar, (C.G.)

WRIT PETITON U/A 226/227 OF THE CONSTITUTION OF INDIA

(95)

HIGH COURT OF CHHATTISGARH AT BILASPUR
W. P. No. 567 of 2005

Petitioners : Ravindra Kumar Baghel and others
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Shri Sunil Sahu, Advocate for the Petitioners.
Smt. Anju Ahuja, Deputy Government Advocate for the State/respondents.

ORDER

(2nd November, 2006)

1. The petitioner No. 1 Ravindra Kumar Baghel, petitioner No. 2 Dansay Mandavi, petitioner No. 3 Krishna Kumar Nag, petitioner No. 4 Rakesh Kumar Vishwakarma and petitioner No. 8 Pukhraj Pathak are working as Assistant Teachers/Upper Division Teachers in the government schools. In the course of their services as Assistant Teachers/Upper Division Teachers, they have obtained B. Ed. examination certificates on their own expenses before 1.3.1999.

2. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

3. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh

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Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

4. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

5. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

6. Accordingly, this writ petition, in regard to the petitioner No. 1 to 4 and 8, is allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B. Ed. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur